



**ICSID**

**International Centre for  
Settlement of Investment Disputes**  
WORLD BANK GROUP

# **THE ICSID CASELOAD — STATISTICS**

Special Focus – South & East Asia  
& the Pacific Region (June 2019)

# The ICSID Caseload – Statistics

## Special Focus – South & East Asia & the Pacific Region

(June 2019)

This issue of the *ICSID Caseload – Statistics* provides an overview of the ICSID caseload involving States in the South & East Asia & the Pacific (SEAP) region.<sup>1</sup> It is based on ICSID cases registered as of June 30, 2019.

The report looks at two categories of cases: a) those involving a SEAP State as the State Party to an ICSID dispute; and b) those involving investors from a SEAP State. For each category the report compiles data on the number and type of cases registered, the basis of consent to ICSID jurisdiction, the relevant economic sectors,<sup>2</sup> and the geographic origin and type of the investors involved in the case. It also contains data on outcomes in these proceedings, including further information on disputes decided by tribunals and on settled or discontinued cases.

Finally, this document looks at the geographic origins of arbitrators, conciliators and *ad hoc* committee members appointed in all ICSID cases, and includes a breakdown of appointments involving nationals from the SEAP region.

The Secretariat welcomes any comments or suggestions by email at [ICSIDsecretariat@worldbank.org](mailto:ICSIDsecretariat@worldbank.org).

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<sup>1</sup> See Annex 1 for a list of the States from the SEAP Region. The classification of the SEAP region is based on the World Bank's regional system, available at [http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/0,,pagePK:180619~theSitePK:136917\\_00.html](http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/0,,pagePK:180619~theSitePK:136917_00.html), and also includes World Bank donor countries.

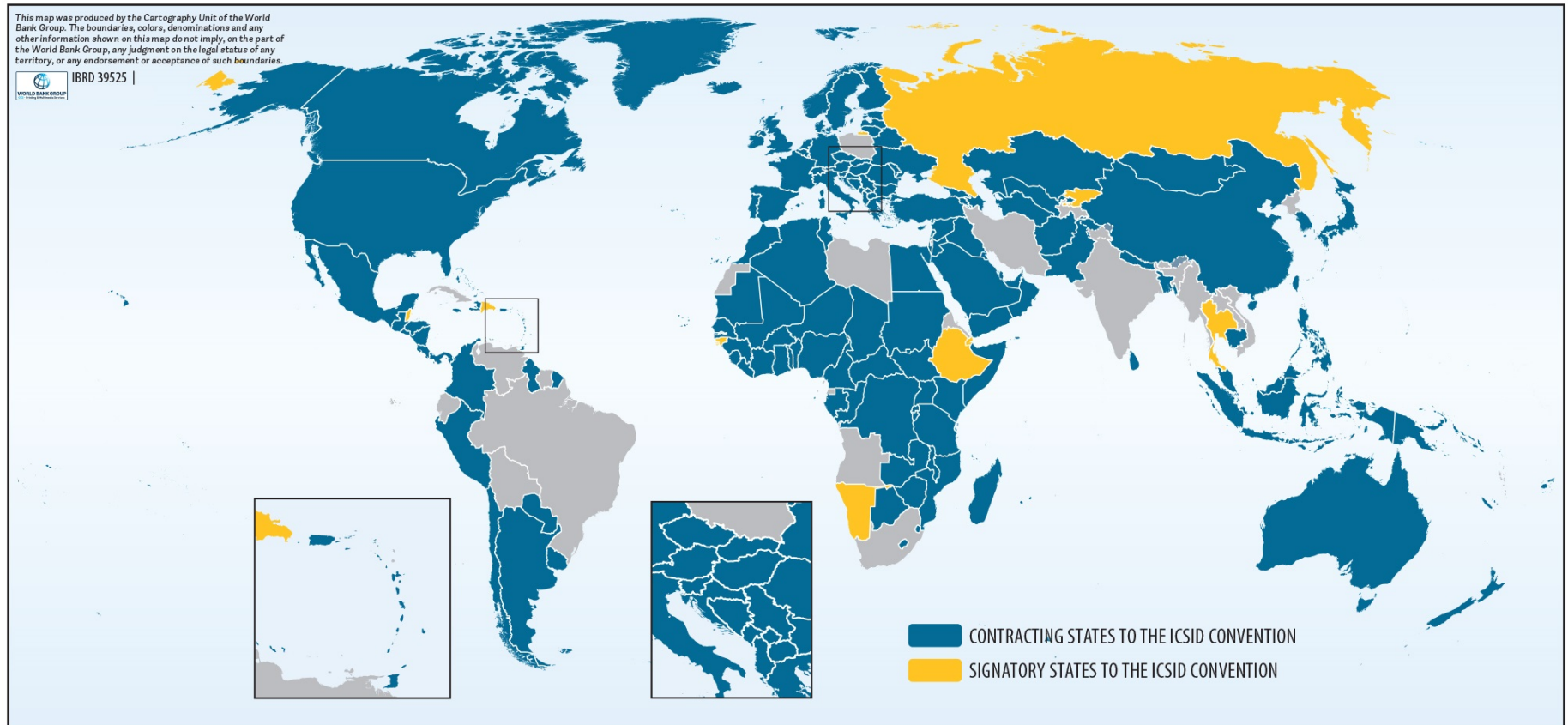
<sup>2</sup> The economic sector classification is based on the World Bank's sector codes, available at <http://projects.worldbank.org/sec tor?lang=>.

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## 1. Map of the Contracting States and Other Signatories of the ICSID Convention as of June 30, 2019



# Special Focus – South & East Asia & the Pacific Region

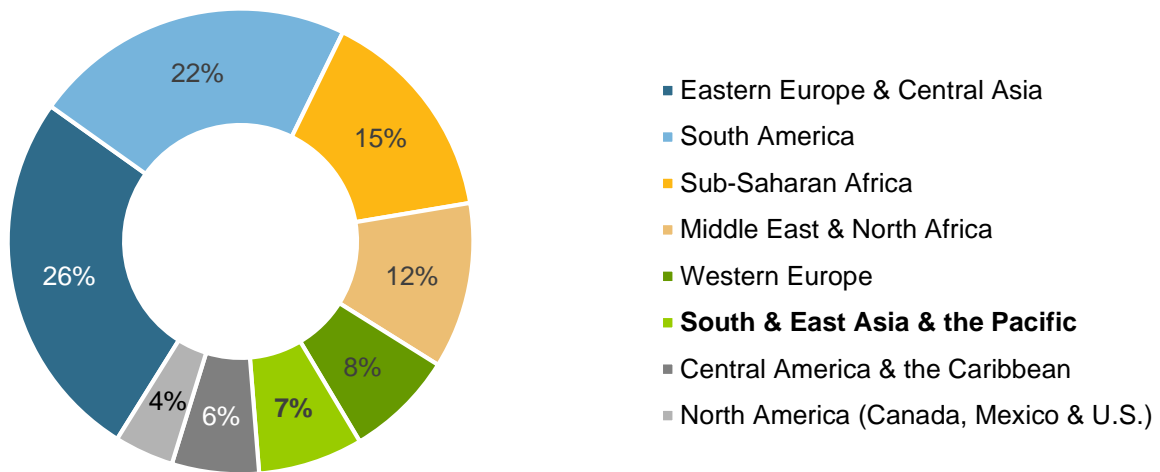
## 2. Map of the Contracting States and Other Signatories of the ICSID Convention in the South & East Asia & the Pacific Region as of June 30, 2019



### 3. Geographic Distribution of All ICSID Cases, by State Party Involved

As of June 30, 2019, ICSID had registered 728 cases under the ICSID Convention and Additional Facility Rules. Fifty-three (53) of these cases (7%) involved a State Party from the South & East Asia & the Pacific (SEAP) Region. A list of the States from the SEAP Region is attached as Annex 1. For a complete list of cases registered by ICSID involving a State party from the SEAP Region, see Annex 2.

**Chart 1:** Geographic Distribution of All Cases Registered under the ICSID Convention and Additional Facility Rules, by State Party Involved



## 4. ICSID Cases involving a State Party from the SEAP Region – Further Details

The chart below lists each SEAP State and the number of ICSID cases in which it has been involved as a party to the dispute. A complete list of ICSID cases involving a State Party from the SEAP Region is attached as Annex 2. In addition, procedural details about each case can be found on the ICSID website at [www.icsid.worldbank.org/](http://www.icsid.worldbank.org/).

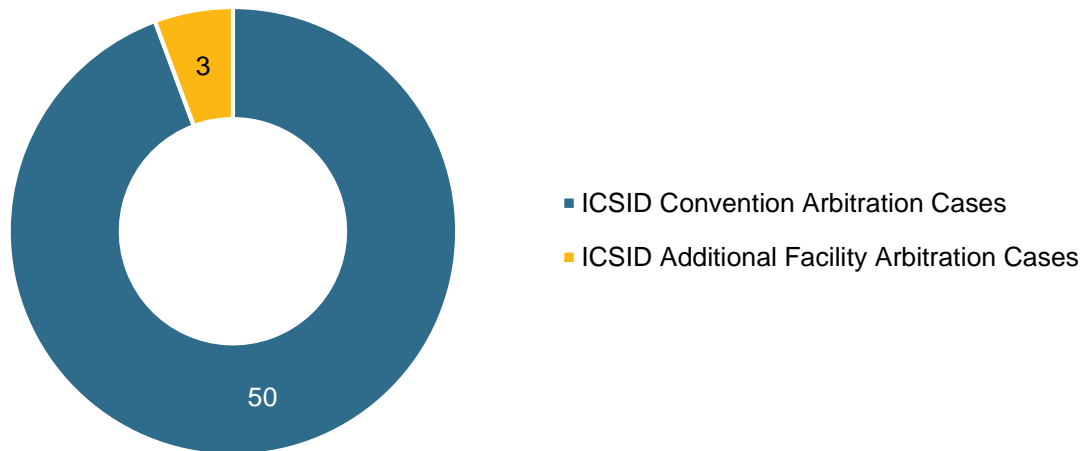
**Chart 2:** Number of ICSID Cases involving a State Party from the SEAP Region

| SEAP State       | Number of ICSID Cases |
|------------------|-----------------------|
| Indonesia        | 8                     |
| Pakistan         | 8                     |
| Bangladesh       | 7                     |
| Philippines      | 5                     |
| Sri Lanka        | 5                     |
| China            | 3                     |
| Korea, Rep. of   | 3                     |
| Malaysia         | 3                     |
| Papua New Guinea | 3                     |
| Lao PDR          | 2                     |
| Cambodia         | 1                     |
| Mongolia         | 1                     |
| Nepal            | 1                     |
| New Zealand      | 1                     |
| Timor-Leste      | 1                     |
| Vietnam          | 1                     |



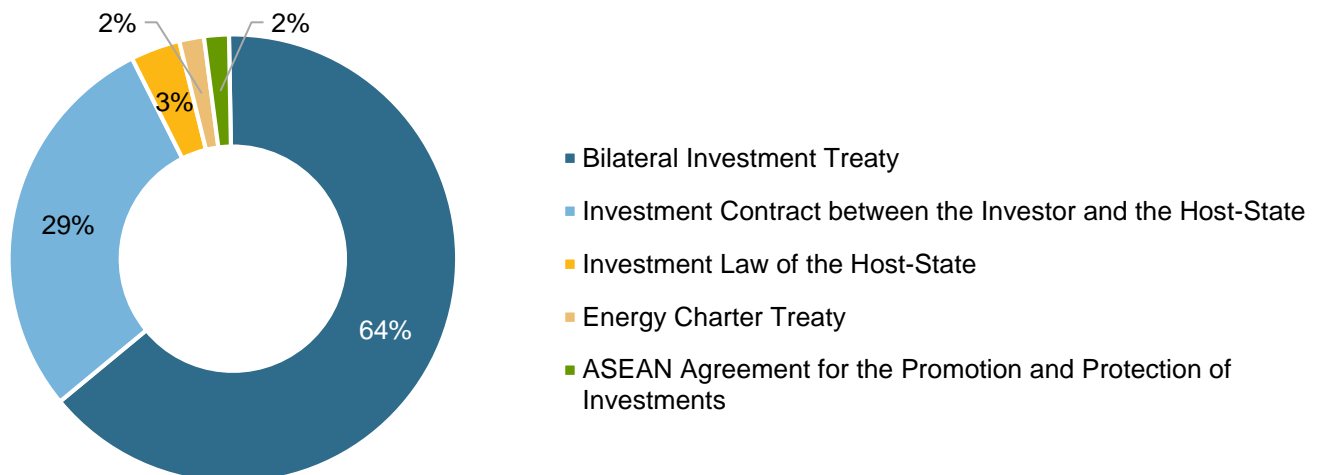
**Chart 3:** Type of Case Registered under the ICSID Convention and Additional Facility Rules involving a State Party from the SEAP Region

Of the 53 ICSID cases involving a SEAP State, 50 were commenced under the ICSID Convention, and 3 were initiated under the Additional Facility Rules. As of June 30, 2019, no conciliation cases had been registered by ICSID involving a State Party from the SEAP Region.

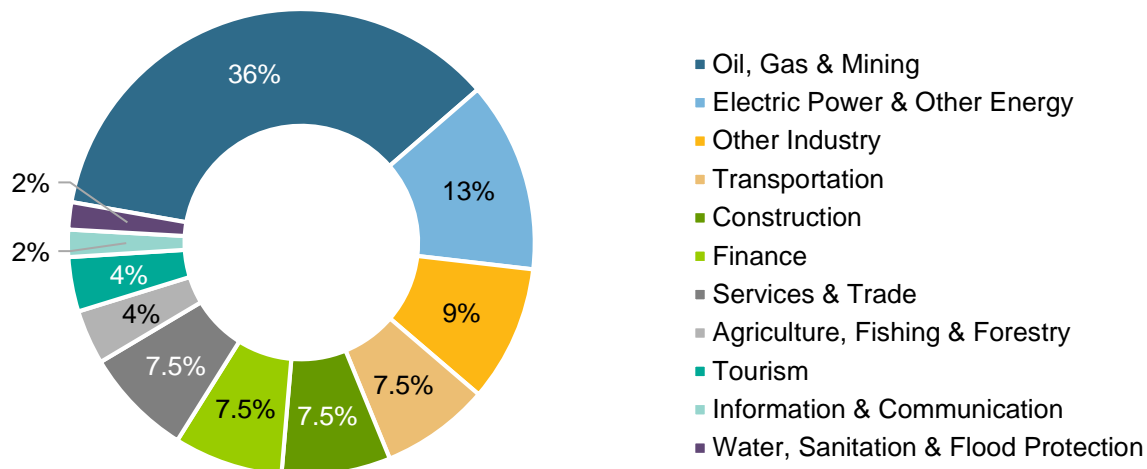


**Chart 4:** Basis of Consent Invoked to Establish ICSID Jurisdiction in Cases Registered under the ICSID Convention and Additional Facility Rules involving a State Party from the SEAP Region

Of the 53 ICSID cases involving a SEAP State, the vast majority (64%) asserted ICSID jurisdiction on the basis of a bilateral investment treaty (BIT). Twenty-nine percent (29%) of the cases relied on the State's consent to arbitrate under investment contracts. A further 3% of the cases relied on the State's consent in an investment law to assert ICSID jurisdiction. The remaining 4% of the cases invoked the State's consent to ICSID jurisdiction in the ASEAN Agreement for the Promotion and Protection of Investments and the Energy Charter Treaty (each 2%).

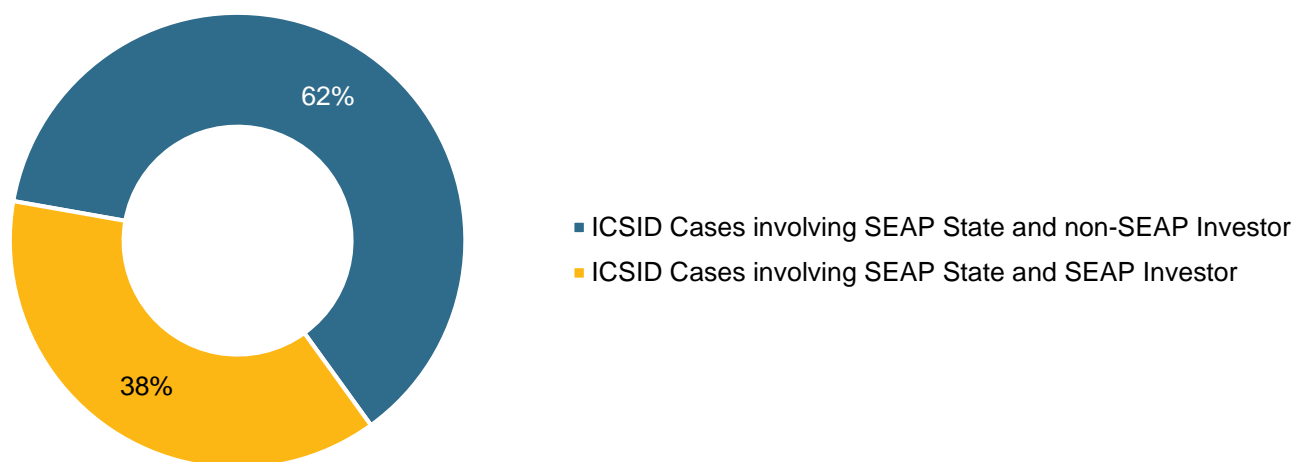


**Chart 5:** Distribution of Cases Registered under the ICSID Convention and Additional Facility Rules involving a State Party from the SEAP Region, by Economic Sector



**Chart 6:** Cases Registered under the ICSID Convention and Additional Facility Rules involving a State Party from the SEAP Region – Geographic Origin of Investors<sup>3</sup>

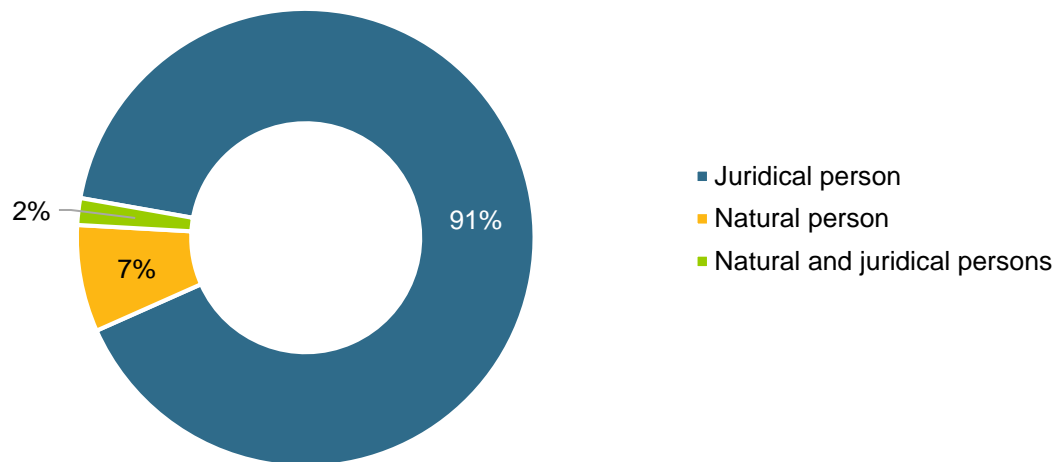
In the 53 ICSID cases involving a SEAP State, 20 involved investors who reported SEAP nationality at the time of case registration. The remaining 33 cases involved investors from States outside of the SEAP Region.



<sup>3</sup> The data is based on the nationality of investors as reported at the time of registration.

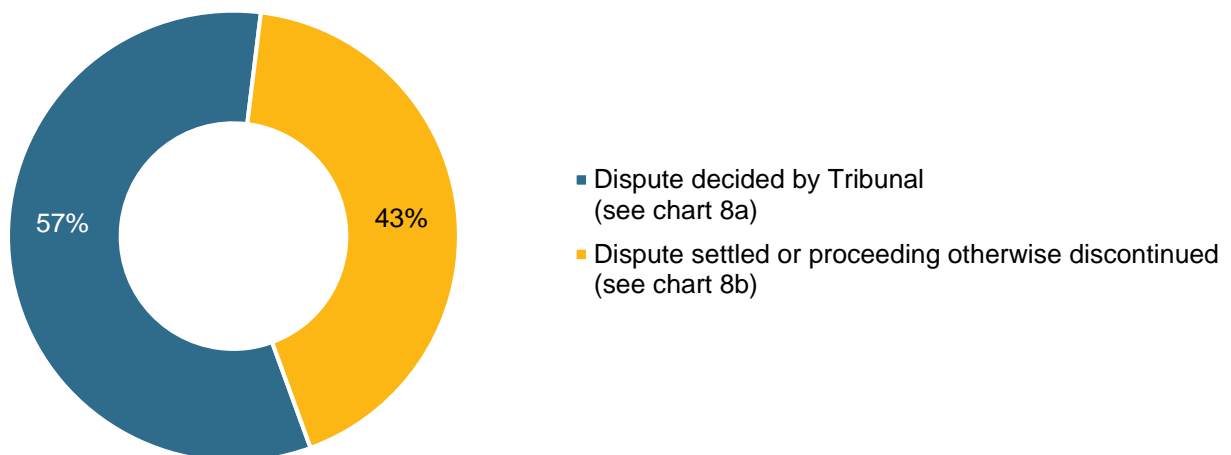
**Chart 7:** Cases Registered under the ICSID Convention and Additional Facility Rules involving a State Party from the SEAP Region – Type of Investor

Of the 53 ICSID cases involving a SEAP State, 9% were instituted by individual persons (“natural persons”). A further 91% involved juridical persons. This term refers to legal entities such as corporations, partnerships, or joint ventures, and includes small, medium, and large enterprises.

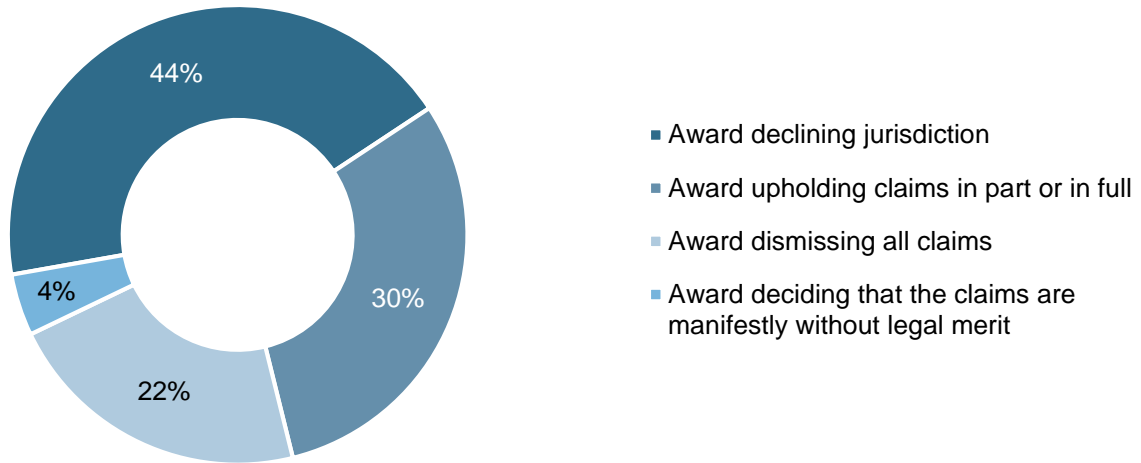


**Chart 8:** Arbitration Proceedings under the ICSID Convention and Additional Facility Rules involving a State Party from the SEAP Region – Outcomes

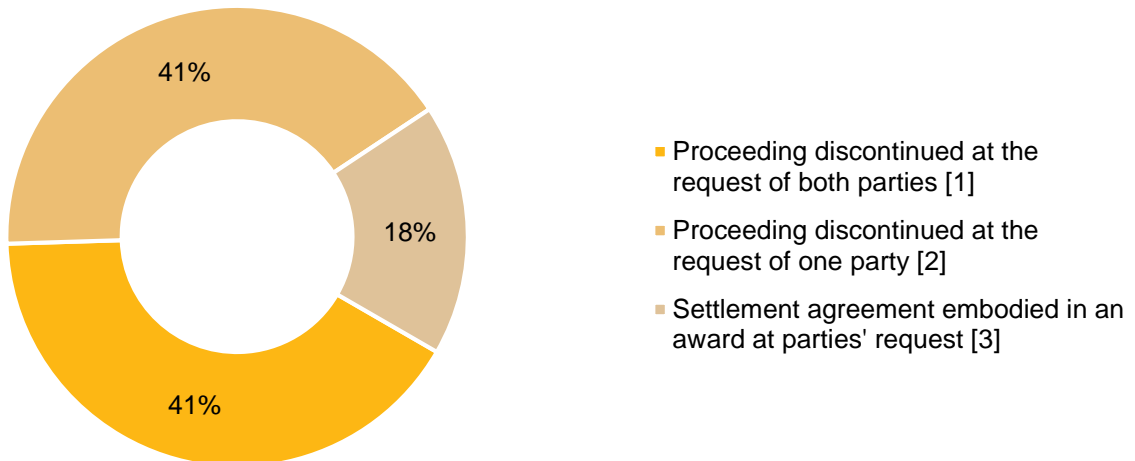
In the concluded arbitrations involving a SEAP State Party, 57% were resolved by a final award by the tribunal. Where the tribunal rendered a final award, 44% of the awards declined jurisdiction, 30% upheld the claims in part or in full, 22% dismissed all claims, and 4% decided that the claims were manifestly without legal merit (see Chart 8a). The other 43% were settled by the parties or discontinued before a final determination of the tribunal. The basis for settlement or discontinuance is indicated in Chart 8b.



**Chart 8a:** Disputes Decided by Arbitral Tribunals under the ICSID Convention and Additional Facility Rules involving a State Party from the SEAP Region – Findings



**Chart 8b:** Disputes Settled or Proceedings Otherwise Discontinued under the ICSID Convention and Additional Facility Rules involving a State Party from the SEAP Region – Basis



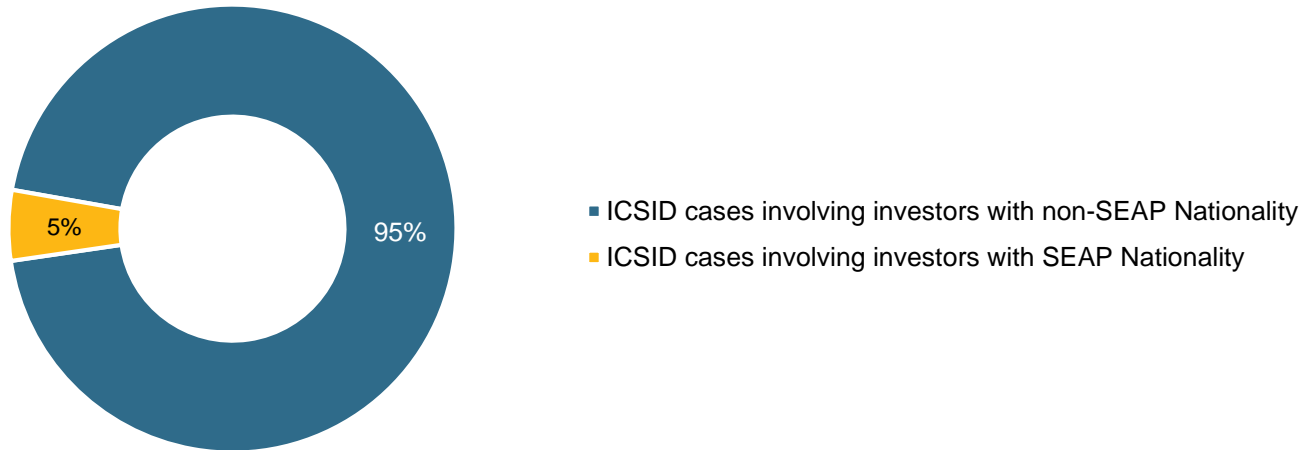
[1] ICSID Arbitration Rule 43(1). No case concluded to date on the basis of Arbitration (Additional Facility) Rule 49(1).

[2] ICSID Arbitration Rule 44. No case concluded to date on the basis of Arbitration (Additional Facility) Rule 50.

[3] ICSID Arbitration Rule 43(2). No case concluded to date on the basis of Arbitration (Additional Facility) Rule 49(2).

## 5. ICSID Cases involving Investors with SEAP Nationality – Details<sup>4</sup>

**Chart 9:** All Cases Registered under the ICSID Convention and Additional Facility Rules – Geographic Origin of Investor



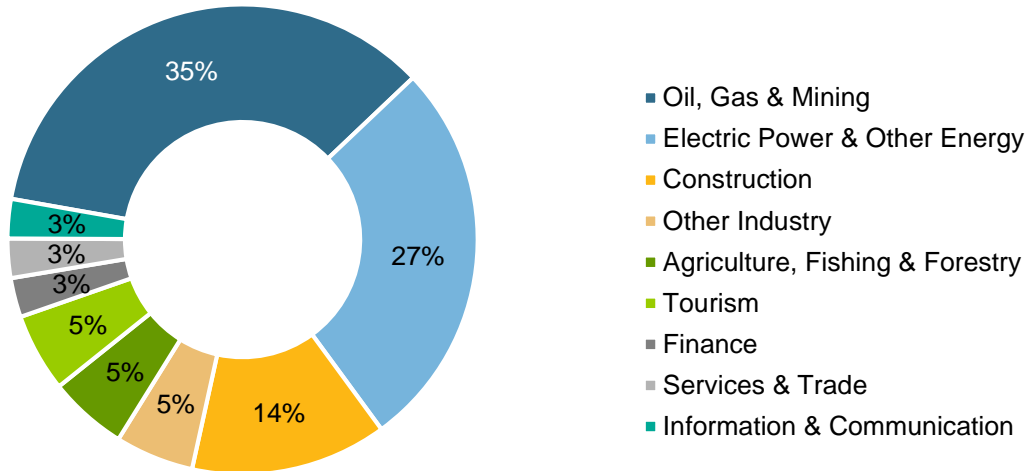
**Chart 10:** Basis of Consent Invoked to Establish ICSID Jurisdiction in Cases Registered under the ICSID Convention and Additional Facility Rules involving Investors with SEAP Nationality

Of the ICSID cases involving a SEAP State, 97% were commenced under the ICSID Convention, and 3% were initiated under the Additional Facility Rules. Forty-two percent (42%) of the cases relied on the State’s consent to arbitrate in a bilateral investment treaty (BIT). Thirty-five percent (35%) were based on an ICSID dispute settlement provision in an investment contract between the investor and the Host-State. A further 10% invoked the State’s consent contained in an investment law. The remaining cases invoked the State’s consent to ICSID jurisdiction in the Energy Charter Treaty (7%), in the ASEAN Agreement for the Promotion and Protection of Investments (3%) and in the Peru-Singapore Free Trade Agreement (3%).

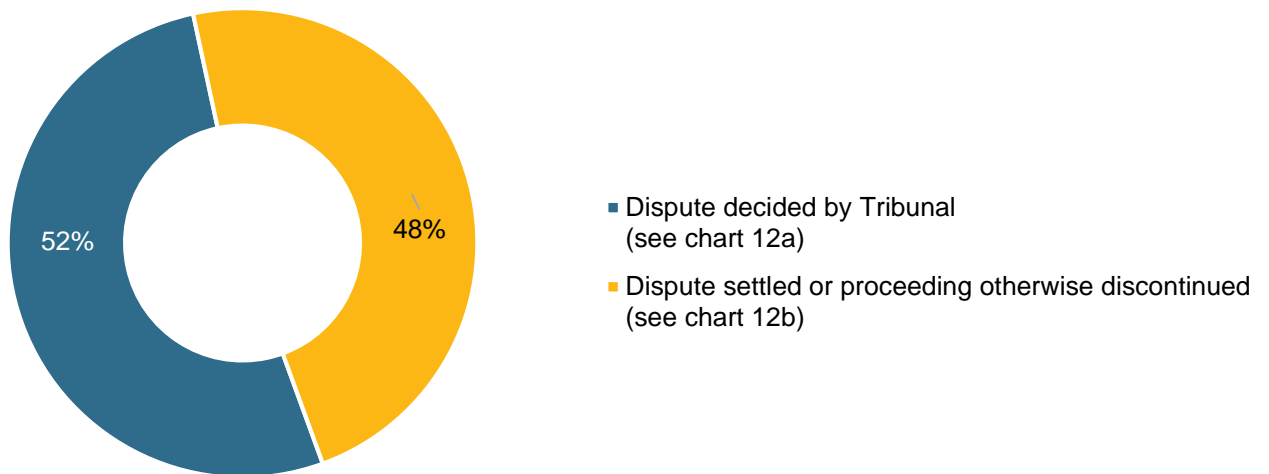


<sup>4</sup> The data is based on the nationality of investors as reported at the time of registration.

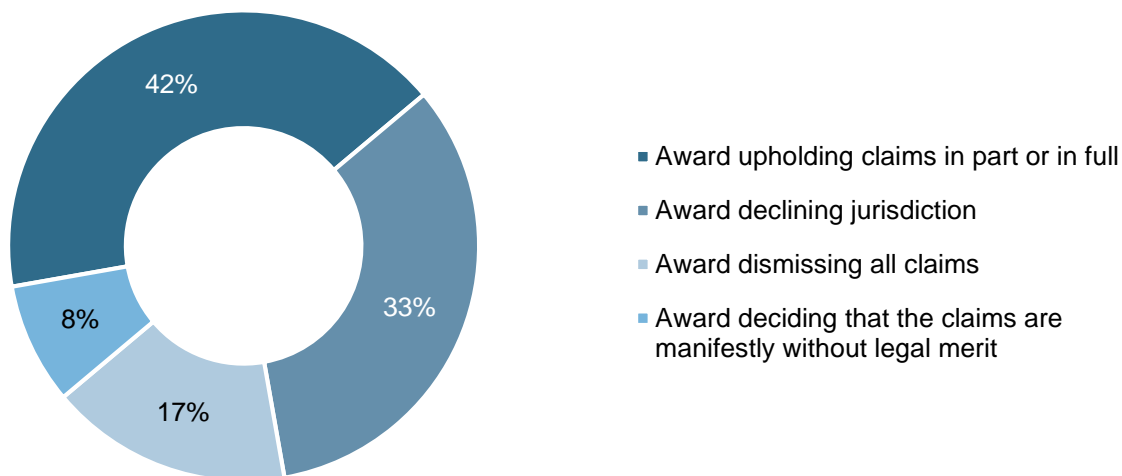
**Chart 11:** Distribution of Cases Registered under the ICSID Convention and Additional Facility Rules involving Investors with SEAP Nationality, by Economic Sector



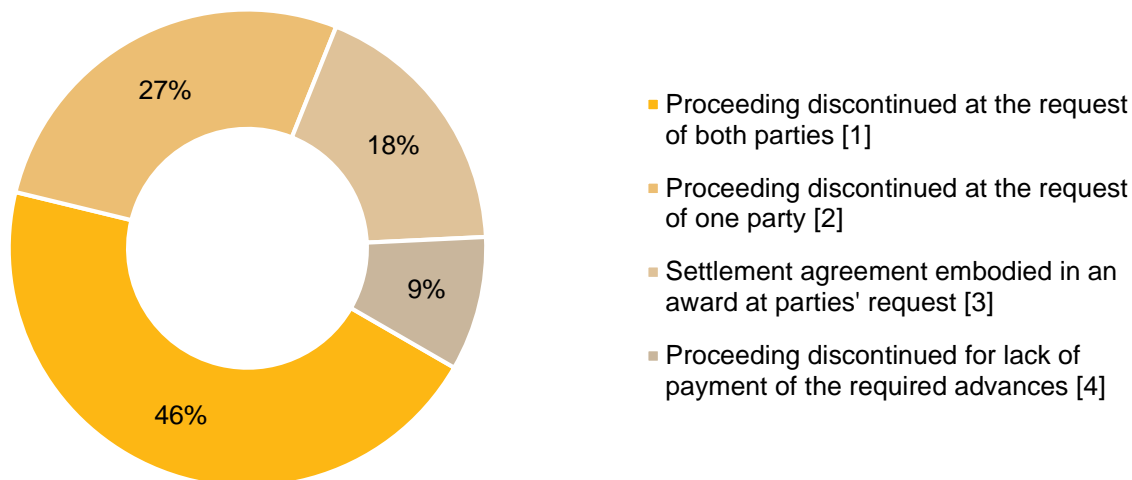
**Chart 12:** Arbitration Proceedings under the ICSID Convention and Additional Facility Rules involving Investors with SEAP Nationality – Outcomes



**Chart 12a:** Disputes Decided by Arbitral Tribunals under the ICSID Convention and Additional Facility Rules involving Investors with SEAP Nationality – Findings



**Chart 12b:** Disputes Settled or Proceedings Otherwise Discontinued under the ICSID Convention and Additional Facility Rules involving Investors with SEAP Nationality – Basis



[1] ICSID Arbitration Rule 43(1). No case concluded to date on the basis of Arbitration (Additional Facility) Rule 49(1).

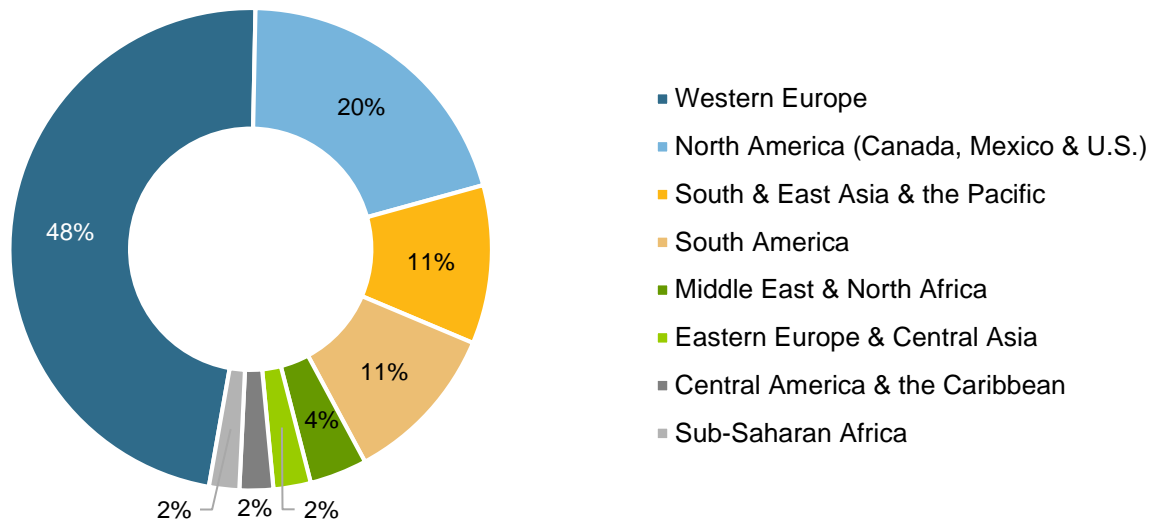
[2] ICSID Arbitration Rule 44. No case concluded to date on the basis of Arbitration (Additional Facility) Rule 50.

[3] ICSID Arbitration Rule 43(2). No case concluded to date on the basis of Arbitration (Additional Facility) Rule 49(2).

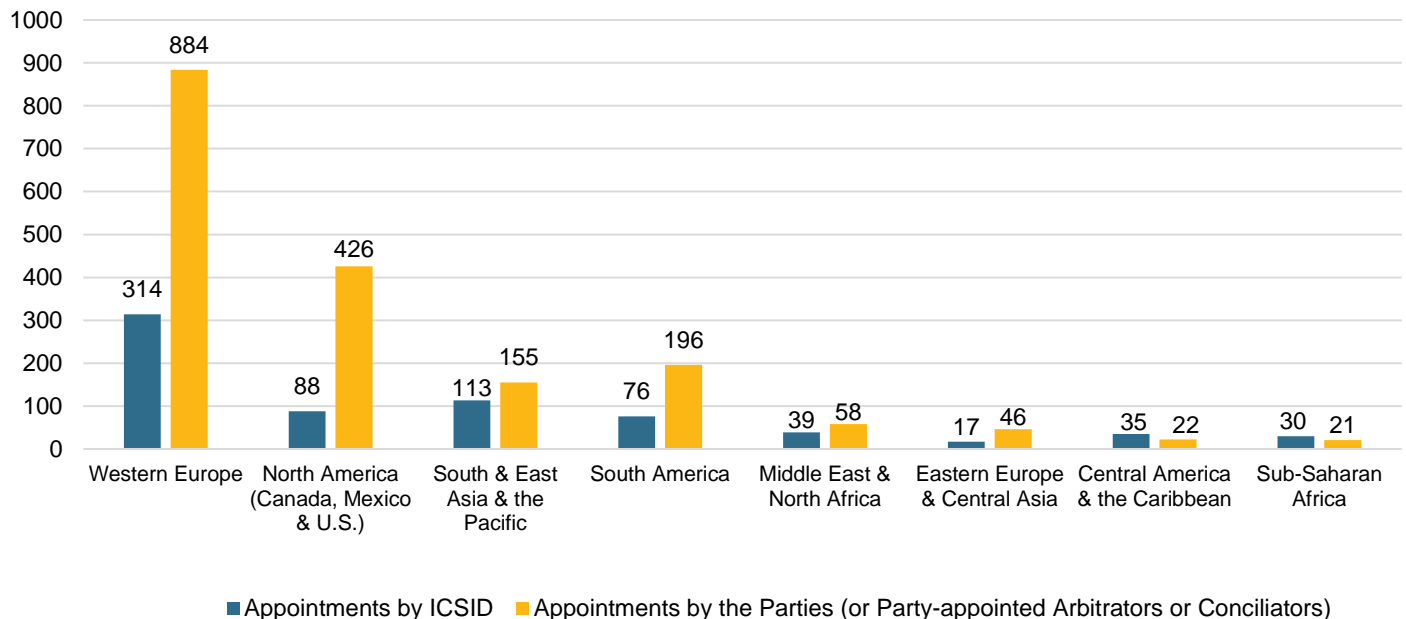
[4] ICSID Administrative & Financial Regulation 14(3)(d).

## 6. Arbitrators, Conciliators and *ad hoc* Committee Members Appointed in ICSID Cases

**Chart 13:** Arbitrators, Conciliators and *ad hoc* Committee Members Appointed in Cases Registered under the ICSID Convention and Additional Facility Rules – Distribution of Appointments by Geographic Region



**Chart 14:** Arbitrators, Conciliators and *ad hoc* Committee Members Appointed in Cases Registered under the ICSID Convention and Additional Facility Rules – Distribution of Appointments by ICSID and by the Parties (or Party-appointed Arbitrators or Conciliators) by Geographic Region

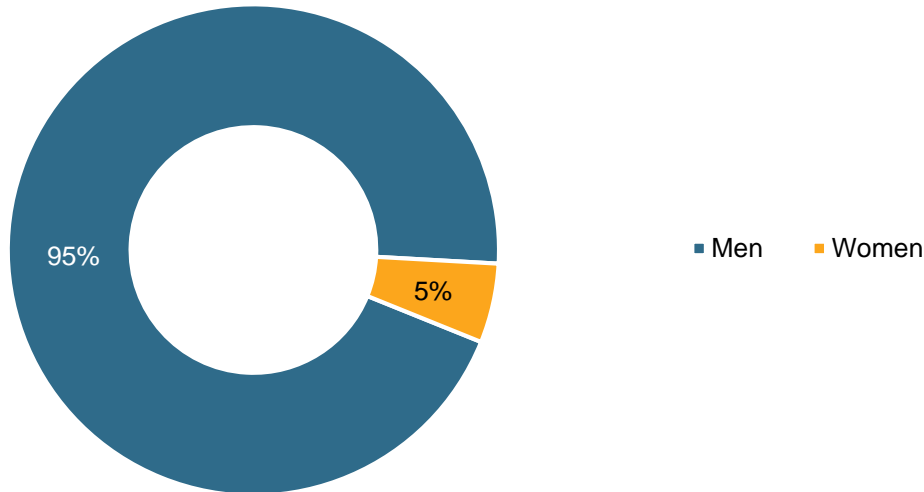




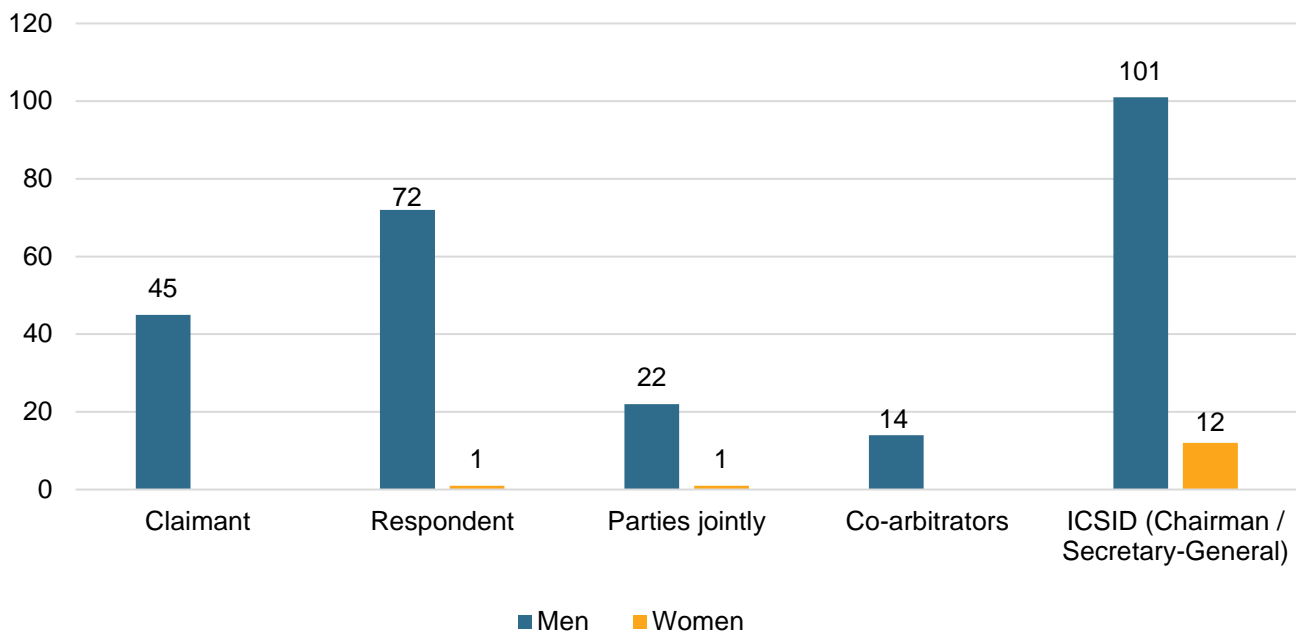
**Chart 15:** State of Nationality of Arbitrators and *ad hoc* Committee Members with SEAP Nationality Appointed in Cases Registered under the ICSID Convention and Additional Facility Rules

| Nationality/ Nationalities        | As of June 30, 2019 |
|-----------------------------------|---------------------|
| Australia                         | 96                  |
| New Zealand                       | 49                  |
| Singapore                         | 20                  |
| China                             | 14                  |
| Pakistan                          | 14                  |
| Bangladesh                        | 12                  |
| Malaysia                          | 12                  |
| Philippines                       | 11                  |
| Korea, Rep.of                     | 10                  |
| Australia/Ireland                 | 7                   |
| Thailand                          | 7                   |
| India                             | 6                   |
| New Zealand/United Kingdom        | 4                   |
| Japan                             | 2                   |
| Australia/Germany                 | 1                   |
| Pakistan/United States of America | 1                   |
| Sri Lanka                         | 1                   |
| United Kingdom/Pakistan           | 1                   |

**Chart 16:** Arbitrators and *ad hoc* Committee Members with SEAP Nationality Appointed in Cases Registered under the ICSID Convention and Additional Facility Rules – Distribution of Appointments by Gender



**Chart 17:** Arbitrators and *ad hoc* Committee Members with SEAP Nationality Appointed in Cases Registered under the ICSID Convention and Additional Facility Rules – Distribution of Appointments by ICSID and by the Parties (or Party-appointed Arbitrators), by Gender



## Annex 1: List of States from the SEAP Region (as of June 30, 2019)

|                           | Signature     | Entry into Force |
|---------------------------|---------------|------------------|
| Afghanistan               | Sep. 30, 1966 | July 25, 1968    |
| Australia                 | Mar. 24, 1975 | June 1, 1991     |
| Bangladesh                | Nov. 20, 1979 | Apr. 26, 1980    |
| Bhutan                    |               |                  |
| Brunei Darussalam         | Sep. 16, 2002 | Oct. 16, 2002    |
| Cambodia                  | Nov. 5, 1993  | Jan. 19, 2005    |
| China                     | Feb. 9, 1990  | Feb. 6, 1993     |
| Fiji                      | July 1, 1977  | Sep. 10, 1977    |
| India                     |               |                  |
| Indonesia                 | Feb. 16, 1968 | Oct. 28, 1968    |
| Japan                     | Sep. 23, 1965 | Sep. 16, 1967    |
| Kiribati                  |               |                  |
| Korea, Dem. People's Rep. |               |                  |
| Korea, Rep. of            | Apr. 18, 1966 | Mar. 23, 1967    |
| Lao PDR                   |               |                  |
| Malaysia                  | Oct. 22, 1965 | Oct. 14, 1966    |
| Maldives                  |               |                  |
| Marshall Islands          |               |                  |
| Micronesia, Fed. Sts.     | June 24, 1993 | July 24, 1993    |
| Mongolia                  | June 14, 1991 | July 14, 1991    |
| Myanmar                   |               |                  |
| Nauru                     | Apr. 12, 2016 | May 12, 2016     |
| Nepal                     | Sep. 28, 1965 | Feb. 6, 1969     |
| New Zealand               | July 6, 1965  | Oct. 15, 1966    |
| Pakistan                  | July 6, 1965  | Oct. 15, 1966    |

|                  | Signature     | Entry into Force |
|------------------|---------------|------------------|
| Palau            |               |                  |
| Papua New Guinea | Oct. 20, 1978 | Nov. 19, 1978    |
| Philippines      | Sep. 26, 1978 | Dec. 17, 1978    |
| Samoa            | Feb. 3, 1978  | May 25, 1978     |
| Singapore        | Feb. 2, 1968  | Nov. 13, 1968    |
| Solomon Islands  | Nov. 12, 1979 | Oct. 8, 1981     |
| Sri Lanka        | Aug. 30, 1967 | Nov. 11, 1967    |
| Thailand         | Dec. 6, 1985  |                  |
| Timor-Leste      | July 23, 2002 | Aug. 22, 2002    |
| Tonga            | May 1, 1989   | Apr. 20, 1990    |
| Tuvalu           |               |                  |
| Vanuatu          |               |                  |
| Vietnam          |               |                  |

## Annex 2: List of ICSID Cases involving State Parties from the SEAP Region (as of June 30, 2019)

|    | Case No.  | Claimant(s)                                                                                     |    | Respondent                                                 | Case Status |
|----|-----------|-------------------------------------------------------------------------------------------------|----|------------------------------------------------------------|-------------|
| 1  | ARB/81/1  | Amco Asia Corporation and others                                                                | v. | Republic of Indonesia                                      | Concluded   |
| 2  | ARB/84/2  | Colt Industries Operating Corporation                                                           | v. | Republic of Korea                                          | Concluded   |
| 3  | ARB/87/2  | Mobil Oil Corporation and others                                                                | v. | New Zealand                                                | Concluded   |
| 4  | ARB/87/3  | Asian Agricultural Products Limited                                                             | v. | Democratic Socialist Republic of Sri Lanka                 | Concluded   |
| 5  | ARB/87/4  | Occidental of Pakistan, Inc.                                                                    | v. | Islamic Republic of Pakistan                               | Concluded   |
| 6  | ARB/92/2  | Scimitar Exploration Limited                                                                    | v. | Bangladesh and Bangladesh Oil, Gas and Mineral Corporation | Concluded   |
| 7  | ARB/94/1  | Philippe Gruslin                                                                                | v. | Malaysia                                                   | Concluded   |
| 8  | ARB/96/2  | Misima Mines Pty. Ltd.                                                                          | v. | Independent State of Papua New Guinea                      | Concluded   |
| 9  | ARB/99/3  | Philippe Gruslin                                                                                | v. | Malaysia                                                   | Concluded   |
| 10 | ARB/00/2  | Mihaly International Corporation                                                                | v. | Democratic Socialist Republic of Sri Lanka                 | Concluded   |
| 11 | ARB/01/13 | SGS Société Générale de Surveillance S.A.                                                       | v. | Islamic Republic of Pakistan                               | Concluded   |
| 12 | ARB/02/2  | Impregilo S.p.A.                                                                                | v. | Islamic Republic of Pakistan                               | Concluded   |
| 13 | ARB/02/6  | SGS Société Générale de Surveillance S.A.                                                       | v. | Republic of the Philippines                                | Concluded   |
| 14 | ARB/03/3  | Impregilo S.p.A.                                                                                | v. | Islamic Republic of Pakistan                               | Concluded   |
| 15 | ARB/03/25 | Fraport AG Frankfurt Airport Services Worldwide                                                 | v. | Republic of the Philippines                                | Concluded   |
| 16 | ARB/03/29 | Bayindir Insaat Turizm Ticaret Ve Sanayi A.S.                                                   | v. | Islamic Republic of Pakistan                               | Concluded   |
| 17 | ARB/04/3  | Cemex Asia Holdings Ltd                                                                         | v. | Republic of Indonesia                                      | Concluded   |
| 18 | ARB/04/10 | Alstom Power Italia SpA and Alstom SpA                                                          | v. | Republic of Mongolia                                       | Concluded   |
| 19 | ARB/05/7  | Saipem S.p.A.                                                                                   | v. | People's Republic of Bangladesh                            | Concluded   |
| 20 | ARB/05/10 | Malaysian Historical Salvors, SDN, BHD                                                          | v. | Malaysia                                                   | Concluded   |
| 21 | ARB/06/10 | Chevron Bangladesh Block Twelve, Ltd. and Chevron Bangladesh Blocks Thirteen and Fourteen, Ltd. | v. | People's Republic of Bangladesh                            | Concluded   |

## Special Focus – South & East Asia & the Pacific Region

|    | Case No.     | Claimant(s)                                                        |    | Respondent                                                                                                                             | Case Status |
|----|--------------|--------------------------------------------------------------------|----|----------------------------------------------------------------------------------------------------------------------------------------|-------------|
| 22 | ARB/07/3     | Government of the Province of East Kalimantan                      | v. | PT Kaltim Prima Coal and others                                                                                                        | Concluded   |
| 23 | ARB/09/2     | Deutsche Bank AG                                                   | v. | Democratic Socialist Republic of Sri Lanka                                                                                             | Concluded   |
| 24 | ARB/09/18    | Cambodia Power Company                                             | v. | Kingdom of Cambodia                                                                                                                    | Concluded   |
| 25 | ARB/10/11    | Niko Resources (Bangladesh) Ltd.                                   | v. | Bangladesh Petroleum Exploration & Production Company Limited ("Bapex") and Bangladesh Oil Gas and Mineral Corporation ("Petrobangla") | Pending     |
| 26 | ARB/10/18    | Niko Resources (Bangladesh) Ltd.                                   | v. | Bangladesh Petroleum Exploration & Production Company Limited ("Bapex") and Bangladesh Oil Gas and Mineral Corporation ("Petrobangla") | Pending     |
| 27 | ARB/11/8     | Agility for Public Warehousing Company K.S.C.                      | v. | Islamic Republic of Pakistan                                                                                                           | Concluded   |
| 28 | ARB/11/12    | Fraport AG Frankfurt Airport Services Worldwide                    | v. | Republic of the Philippines                                                                                                            | Concluded   |
| 29 | ARB/11/13    | Rafat Ali Rizvi                                                    | v. | Republic of Indonesia                                                                                                                  | Concluded   |
| 30 | ARB/11/15    | Ekran Berhad                                                       | v. | People's Republic of China                                                                                                             | Concluded   |
| 31 | ARB/11/27    | Baggerwerken Decloedt En Zoon NV                                   | v. | Republic of the Philippines                                                                                                            | Concluded   |
| 32 | ARB/12/1     | Tethyan Copper Company Pty Limited                                 | v. | Islamic Republic of Pakistan                                                                                                           | Pending     |
| 33 | ARB/12/14    | Churchill Mining PLC                                               | v. | Republic of Indonesia                                                                                                                  | Concluded   |
| 34 | ARB(AF)/12/6 | Lao Holdings N.V.                                                  | v. | Lao People's Democratic Republic                                                                                                       | Pending     |
| 35 | ARB/12/37    | LSF-KEB Holdings SCA and others                                    | v. | Republic of Korea                                                                                                                      | Pending     |
| 36 | ARB/12/40    | Planet Mining Pty Ltd                                              | v. | Republic of Indonesia                                                                                                                  | Concluded   |
| 37 | ARB/13/1     | Karkey Karadeniz Elektrik Uretim A.S.                              | v. | Islamic Republic of Pakistan                                                                                                           | Pending     |
| 38 | ARB/13/33    | PNG Sustainable Development Program Ltd.                           | v. | Independent State of Papua New Guinea                                                                                                  | Concluded   |
| 39 | ARB/14/15    | Nusa Tenggara Partnership B.V. and PT Newmont Nusa Tenggara        | v. | Republic of Indonesia                                                                                                                  | Concluded   |
| 40 | ARB/14/25    | Ansung Housing Co., Ltd.                                           | v. | People's Republic of China                                                                                                             | Concluded   |
| 41 | ARB/15/2     | Lighthouse Corporation Pty Ltd and Lighthouse Corporation Ltd, IBC | v. | Democratic Republic of Timor-Leste                                                                                                     | Concluded   |
| 42 | ARB/15/17    | Hanocal Holding B.V. and IPIC International B.V.                   | v. | Republic of Korea                                                                                                                      | Concluded   |

## Special Focus – South & East Asia & the Pacific Region

|    | Case No.     | Claimant(s)                                                      |    | Respondent                                                                     | Case Status |
|----|--------------|------------------------------------------------------------------|----|--------------------------------------------------------------------------------|-------------|
| 43 | ARB(AF)/16/2 | Lao Holdings N.V.                                                | v. | Lao People's Democratic Republic                                               | Pending     |
| 44 | ARB/16/22    | Shell Philippines Exploration B.V.                               | v. | Republic of the Philippines                                                    | Pending     |
| 45 | ARB/16/25    | Raymond Charles Eyre and Montrose Developments (Private) Limited | v. | Democratic Socialist Republic of Sri Lanka                                     | Pending     |
| 46 | ARB/16/26    | Oleovest Pte. Ltd.                                               | v. | Republic of Indonesia                                                          | Concluded   |
| 47 | ARB/17/19    | Hela Schwarz GmbH                                                | v. | People's Republic of China                                                     | Pending     |
| 48 | ARB/17/26    | Puma Energy PNG Supply Ltd and Puma Energy PNG Refining Limited  | v. | Independent State of Papua New Guinea                                          | Concluded   |
| 49 | ARB(AF)/18/2 | Shin Dong Baig                                                   | v. | Socialist Republic of Vietnam                                                  | Pending     |
| 50 | ARB/18/15    | NEPC Consortium Power Limited                                    | v. | Bangladesh Power Development Board                                             | Pending     |
| 51 | ARB/18/39    | KLS Energy Lanka Sdn. Bhd.                                       | v. | Democratic Socialist Republic of Sri Lanka                                     | Pending     |
| 52 | ARB/19/15    | Axiata Investments (UK) Limited and Ncell Private Limited        | v. | Federal Democratic Republic of Nepal                                           | Pending     |
| 53 | ARB/19/18    | Niko Exploration (Block 9) Ltd.                                  | v. | People's Republic of Bangladesh and Bangladesh Oil Gas and Mineral Corporation | Pending     |

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